

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION**

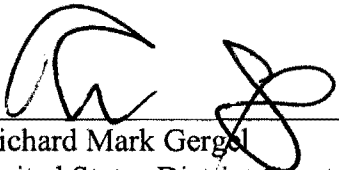
Arthur J. Anderson, Jr.,)	
)	
Plaintiff,)	
)	Civil Action No. 1:10-996-RMG
vs.)	
)	
Darlene Drew, individually and in)	
her official capacities,)	ORDER
)	
Defendant.)	
)	
)	
)	

This action was filed by Plaintiff *pro se* against the warden of the prison in which he was then incarcerated asserting deprivation of his constitutional right to marry. (Dkt. No. 53). Defendant has moved for summary judgment. (Dkt. No. 59). In reviewing Defendant's motion and Plaintiff's opposition, it appears to the Court that this *pro se* litigant has a colorable claim but lacks the capacity to properly present the claim. *Zuniga v. Effler*, 2012 WL 2354464 (4th Cir. 2012). In such a circumstance, the Court has the discretion to appoint counsel for the *pro se* litigant if the party is unable to afford counsel. 28 U.S.C. § 1915(e)(1). The Court finds that appointment of counsel is proper in these circumstances and hereby appoints Joshua S. Whitley of the Charleston County Bar as counsel for Plaintiff.

In order to afford newly appointed counsel adequate time to review this matter and to make, if necessary, any amendments to the pleadings as they are now presented, the Court hereby declines to adopt the Magistrate Judge's Report and Recommendation and denies Defendant's

motion for summary judgment *without prejudice*. By separate order, the Court will issue a scheduling order in this matter.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court

July 11, 2012
Charleston, South Carolina